

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

DONGMEI LI,

Plaintiff,

v.

APPLE INC.; STEVE JOBS; and
AT&T INC.,

Defendants.

Civil Action No. 07-04005-LDW-ETB

DECLARATION OF DANIEL A. SASSE IN SUPPORT OF MOTION TO DISMISS

I, Daniel A. Sasse, declare and state as follows:

1. I am a Partner with the law firm Crowell & Moring LLP. I am licensed to practice in the State of California, admitted to this Court *pro hac vice*, and I am an attorney of record for AT&T Inc. ("AT&T") in the above entitled action. I make this declaration based on my personal knowledge and, if called as a witness by the court, I could and would be competent to testify to the matters set forth below.

2. Counsel for AT&T Inc. has repeatedly reached out to Plaintiff's Counsel since October 2007 and tried to resolve this issue without Court intervention. Counsel offered to stipulate to the substitution of AT&T Mobility LLC in this case and the dismissal of AT&T Inc. Plaintiff has refused to return telephone calls or respond to letters.

3. If Plaintiff Dongmei Li simply would have referenced the two-year service agreement that she entered into and received when she purchased her 4 GB iPhone from

Apple, she would see that the agreement is with AT&T Mobility LLC. The first sentence of the service agreement states, “‘AT&T’ or ‘we,’ ‘us’ or ‘our’ refers to AT&T Mobility LLC acting on behalf of its FCC-licensed affiliates doing business as AT&T.”

4. AT&T Inc.’s most recent publicly filed SEC form 10-K February 26, 2007, which is available at <http://phx.corporate-ir.net/phoenix.zhtml?c=113088&p=IROL-secToc&TOC=aHR0cDovL2NjYm4uMTBrd2l6YXJkLmNvbS94bWwvY29udGVudHMueG1sP2lwYWdlPTQ3MDI0ODImcmVwbz10ZW5r> states the following:

- i. AT&T Inc. is a Delaware corporation, with its principal and only place of business located in San Antonio, Texas. *Id.* at 1. AT&T Inc. is holding company and has no employees. *Id.*
 - ii. AT&T Inc. was incorporated in Delaware in October 1983 under the name Southwestern Bell Corporation. AT&T Inc. is and always has been a holding company. *Id.*
 - iii. In 1995, Southwestern Bell Corporation changed its name to SBC Communications Inc. On November 18, 2005, SBC Communications Inc. acquired AT&T Corp., an unrelated company. The acquisition was accomplished by merging a wholly-owned subsidiary of SBC Communications Inc. with AT&T Corp. AT&T Corp. thereby became a wholly-owned subsidiary of SBC Communications Inc. Shortly thereafter, SBC Communications Inc. changed its name to AT&T Inc. *Id.*
3. Since it is only a holding company, AT&T Inc. conducts no business with the public, and specifically conducts no business in New York. AT&T Inc.’s only business is

to hold stock in other companies, such as operating companies and other subsidiaries.

AT&T Inc. is a legally and factually separate corporate entity, distinct from each of its direct and indirect subsidiaries.

4. Since it is only a holding company, AT&T Inc. is not registered, licensed or otherwise qualified to do business in New York and, therefore, has not appointed a registered agent for service of process in New York. *See also* New York Secretary of State, Division of Corporations

[http://appsext8.dos.state.ny.us/corp_public/CORPSEARCH.ENTITY_SEARCH_ENTRY?
p_entity_name=%41%54%26%54%20%49%6E%63&p_name_type=%41&p_search_type
=%42%45%47%49%4E%53](http://appsext8.dos.state.ny.us/corp_public/CORPSEARCH.ENTITY_SEARCH_ENTRY?p_entity_name=%41%54%26%54%20%49%6E%63&p_name_type=%41&p_search_type=%42%45%47%49%4E%53)

5. Since it is only a holding company, AT&T Inc. does not own or maintain an internet or telecommunications network and it does not provide internet, telecommunications or other services to the public. AT&T Inc. does not make, sell, offer to sell, or import products or services of any kind in any state or jurisdiction. AT&T Inc. does not have any sales representatives or distributors and produces nothing to sell or distribute.

6. Since it is only a holding company, AT&T Inc. has no presence in New York. It has no office or mailing address in New York, and does not own, lease, manage, or maintain any real property in New York.

7. Since it is only a holding company, AT&T Inc. does not have any employees in New York, and does not provide internet or telecommunications services to any consumers in New York.

8. Since it is only a holding company, AT&T Inc. does not manufacture any product of any kind or provide any service of any nature that could find its way through the stream of commerce into New York.

9. Since it is only a holding company, AT&T Inc. has never conducted any business with Plaintiff Dongmei Li in New York or in any other jurisdiction related to wireless services or the sale of iPhones as alleged in paragraph 6 of the Complaint in this action.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 31^h day of January 2008, at Irvine, California.

s/ Daniel A. Sasse
Daniel A. Sasse, Esq.